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Clarke County Easement News

FALL

2007

Easement Authority: A Five Year Odyssey And a Win-Win-Win-Win-Win for Clarke

By Wingate Mackay-Smith

A study committee convened in March 2001 to explore the possibility of establishing a Clarke County Easement Authority. Over the next 18 months the committee sought ideas, guidance, and advice from natural resource and historic preservation experts; planning and zoning officers and other counties in Virginia who had established their own authorities. This research led to the development of criteria for scoring properties in terms of their natural assets; a “sliding scale” for evaluating purchase requests, techniques for raising public awareness, and procedures for appraising properties and monitoring them once accepted in permanent easement.

With this new found knowledge came the awareness that saving open space and resources held benefits for all the citizens of Clarke starting with their pocketbooks.

A 1996 study had demonstrated that each house in Clarke cost the County about 30% more than it paid back in taxes. This finding was consistent with figures from counties nationwide. Since open land required no major services (schools, police, 911, parks and rec., etc.) the County could draw on the surplus provided from taxes on open space to make up the 30% shortfall. The message was clear: the more land that could be kept open and sparsely developed, the lower our tax bills would be!

Another benefit was increased school funding. Because of the formula that the State uses to allocate funds, easements were actually generating extra revenue paid directly to the schools. (This amounted to over a quarter of a million dollars last year alone.)

Third, we knew that our small county would not be able to fund us on any reliable, dedicated basis. By creating an Authority, we could apply for federal and state grants created to protect open space. These additional funds would enable us to increase the amounts we could offer those on the low side of our “sliding scale” who would otherwise get little or no tax benefit from giving up some of their equity.

Fourth, conserving open space through conservation easements would help protect the agricultural industry in Clarke — which according to a study conducted by Virginia Tech accounts for 25% of our economy.

Finally — and perhaps in the long run, most compelling — we saw that wise land use management helped protect finite resources including household water supply for residents who depend on ground water for their needs; preservation of large tracts of air-cleansing trees to help deal with the increasingly polluted air that comes our way; and the protection of the natural beauty and historic landmarks which draw visitors to our county.

Our first application was from a family who owned the farmland and historic structures known as Greenway Court. This property was the home and land office of Thomas, Lord Fairfax, who was granted all the land between the headwaters of the Potomac and the Rappahannock Rivers, amounting to over five million acres!

The property is one of only 118 on the entire list of National Historic Landmarks in Virginia, Register of Historic Places — and the fledgling Authority was being asked to participate in its permanent preservation! To say we were delighted is an understatement. Together with our county Architectural Historian, Maral Kalbian, we worked out an agreement to address issues resulting in the permanent preservation of 140 acres plus all

the original buildings. Since that time, several neighboring properties have given up building rights, and further protected the area around Greenway Court.

Our most recent easement donation is a farm that surrounds the Georgian house, Mesilla, which was built by Bishop Meade, the ancestor of the current owners. Thanks to their donation, Mesilla will have its architectural integrity and view shed permanently protected.

Big Gains On A Shoestring Budget

Since that first easement, our committee has processed many applications. The vast majority are for donations only. That is to say, the landowner gives the easement to the Authority without requesting any reimbursement, usually extinguishing some of the land's remaining development and subdivision rights. In most cases the value of the donation can be deducted from the owner's federal and state income tax liability with a generous carryover, so they don't have to use it all in the same year, and can additionally use or sell the cash benefits the state offers in the way of tax credits.

In a few cases, the Authority has been asked to purchase some of the value that the landowner is giving up in the way of development potential. The committee agonizes over these requests, and applies stringent criteria to decide which are good investments for the County. By taking advantage of the federal and state funding noted earlier, the Authority has purchased easements resulting in the extinguishment of 16 dwelling unit rights and protection of 390 prime acres of open space — representing about 30% of the acreage we now hold.

Some neighboring counties have good programs as well, but they benefit from better, and more predictable, funding. We in Clarke have risen to the challenge of the necessity of being more creative than our neighbors! This is a source of great satisfaction as we strive to protect our county from the growth pressures that cost us all more in the long run. We have only to look at the tax rates and assessments in the densely developed counties to our east to see that people and houses cost more money than pastures and livestock!

We count our first five years as an unqualified success. We are still focused on our general mission, still spending a great many volunteer hours on the various projects before us, and looking forward to providing this dedicated service to Clarke County for years to come.



Editors Note:

It's been five years since the launch of the Conservation Easement Authority. This issue of the newsletter celebrates that milestone with two articles written by committee members. The first describes the Authority's founding and growth written by Wingate "Winkie" Mackay-Smith, who chairs the committee. The second is a wise and whimsical tale about the benefits of sound land use policies, written by committee member, George Ohrstrom. Enjoy!!

Protected Acreage Increases 75% in 2007 31 DURs Extinguished

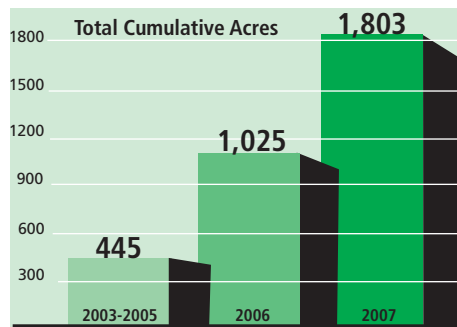
It's shaping up to be another banner year for open space protection in Clarke County. At the end of 2006, the Authority had accepted easements on a total of 1,025 acres. By the end of this year, the Authority expects to add 778 more for a total of 1,803 protected acreage, a 75% increase in a single year!

Equally astonishing, 31 dwelling unit rights will be extinguished, matching — again in a single year — the number of DURs it has extinguished in the previous four!

This unprecedented increase in activity is due in part to major tax incentives from the State and encouragement from Governor Kaine to meet our responsibilities for land preservation in the Chesapeake Bay Agreement.

Funding to purchase easements, pay closing costs, or both on the 18

properties we added in 2007 came from donor contributions and a \$585,000 grant awarded by the Natural Resource Conservation Service, Farm and Ranchland Protection Program. An additional \$300,000 is anticipated from the State Office of Farmland Preservation. Funding from these sources is matched with local funds and provides a substantial boost to the Authority's easement purchase program.



Quarterly newsletter published by the Clarke County Conservation Easement Authority
dedicated to preserving properties with natural, cultural or scenic resources worthy of protection

Archie & Pepper

By George Ohrstrom



Archie & Pepper

It was one of those perfect days in December; at least perfect from a cow’s point of view — sunny and no flies. Archie and Pepper, the famous cow citizens of Clarke County, were in a deep sleep when they were rudely awakened by the “beep, beep, beep” of a construction machine backing up. After blinking a few times Pepper asked Archie, “What is that thing doing here?” nodding at the large backhoe digging in the dirt track on the other side of their fence. “I thought those dreadful machines only operated in other counties. Isn’t that what Old Whitehair rails against just about all the time?”

Archie snorted and said “Yeah — and it’s not just one county he raves about but three or four. I have trouble understanding their names. Lowdown? Or Loudoun? Frederick? Or Fred Rick? I don’t know. Then there’s Warner. Or is it Warren? And finally Jefferson — or maybe Jeff’s Son. From what I understand, he’s really upset about those counties’ land use policies.”

Pepper reached down, rubbed his nose against his leg and asked “What’s land use? I thought land’s only use was to grow grass and trees and mud and snow?”

“Believe it or not — many counties think the only good use for land is people and houses. In fact they’d like to get rid of us entirely, even though we don’t cost much to keep. Just a little soil and water.

So they encourage developers to purchase land like ours, push all the dirt up with that machine over there and fill our fields with houses. First they sell the houses and then the counties have to build more roads, more schools, and hire more police to protect these newcomers.”

Archie reached down for a particularly succulent mouthful of grass and continued, “The problem is somebody has to pay for all these increased services.”

“How do they do that?”

Archie stretched his neck and said, “Here’s where it gets complicated. If I understand Old Whitehair correctly, there’s

something called ‘taxation.’ That’s where all the people give some of their money to the local government rulers and they use it to provide those services I just mentioned, plus a lot more. It’s pretty obvious that the more services you provide the more taxes you’ll need to pay.”

Pepper looked at him wide-eyed and said, “Well, how come we don’t have houses going up everywhere in our county?”

“From what I hear, our county saw what the others didn’t — the long range cost of development and houses. So about 30 years ago, it made a decision to keep much of our county in farmland.”

Pepper listened to the backhoe for a while and then wandered off down the fence with Archie slowly following. Suddenly he stopped, turned around and asked Archie, “Why doesn’t our county buy the land itself to stop this cycle before it starts?”

“Our little county could never afford to buy enough land to keep it as it is now. Fortunately, private citizens have decided they want to protect their land from all that development. So they donate their right to develop the land through something called *conservation easements*. That’s what Old Whitehair did.

Sometimes, though, landowners can’t afford to give up their development rights because it’s all they’ve got. In some cases the County can sometimes step in and buy the easement, if there are funds available. This allows the farmer to receive some money from the land in the near term for giving up the right to the ever-appreciating value of the land in the long term.

There are those who say tax money shouldn’t be spent on protecting open land, but if counties like ours didn’t do it, there wouldn’t be any farmland left!”

As the backhoe trundled away after smoothing out the damaged farm track, Archie looked at Pepper and said, “Well, it sounds like our county is on the right track, Archie. But all this talk has made me hungry! Think Old Whitehair will feed us some more apples today?”

Thought for the Day

“Open spaces enhance sustainable economic development. They provide crucial places for recreation, education, and aesthetic and spiritual inspiration and enrichment. The preservation of natural spaces is a victory of spiritual values over short-term material greed. Progress entails protecting natural open spaces so they will be available in their natural state for our children and later generations. That’s what responsible, forward-looking stewardship is about.”

—Ross C. Anderson, Mayor
Salt Lake City, Utah

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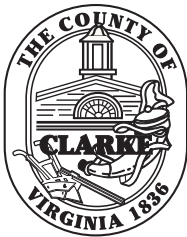
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Clarke County Conservation Easement Authority

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